

# Practical considerations for Complainants of Workplace Sexual Harassment

**Rose Keith**

*Partner*

Employment Law

December 2, 2025

## Introduction

**Mock Interview Portion**  
**The Employee v. The University and another**  
**2020 BCHRT 12**

**POLL: Can Liz get EI if she quits her job?**

- a) Yes
- b) No

**POLL: Can Liz report the incident and launch legal action if she is only a probationary employee?**

- a) Yes
- b) No

## Legal Framework

***Moore v BC (Education)*, 2012 SCC 61.**

To prove discrimination, a complainant must prove that:

1. they have a characteristic protected by the *Human Rights Code* [**Code**];
2. they experienced an adverse impact with respect to an area protected by the *Code*; and
3. the protected characteristic was a factor in the adverse impact.

## Legal Framework Continued

***Janzen v Platy Enterprises Ltd.*, [1989] 1 SCR 1252.**

The conduct at issue must:

1. be of a sexual nature;
2. be unwelcome; and
3. result in adverse consequences for the complainant.

**POLL: Do the facts in the mock interview qualify as conduct of a sexual nature?**

- a) Yes
- b) No



## Legal Framework Continued

***Pardo v School District No. 43, 2003 BCHRT 71.***

1. The egregiousness or virulence of the comment
2. The nature of the relationship between the involved parties
3. The context in which the comment was made
4. Whether an apology was offered
5. Whether or not the recipient of the comment was a member of a group historically discriminated against

**POLL: Based on the mock interview and the Pardo factors, did the professors conduct give rise to adverse consequences for our client**

- a) Yes
- b) No

## POLL: What alternatives does Liz have to litigation:

- a) Workplace Investigation
- b) WorkSafeBC Complaint
- c) Filing Grievance with her Union
- d) All of the Above

## Privacy Concerns

- Rule 5 of *Tribunals Practices and Procedures*
- *Ng v City of Vancouver (No. 2)*, 2024 BCHRT 228

## Remedies

### ❖ BCHRT

- Cease and refrain order
- Declaratory order
- Steps or programs to address discrimination
- Getting what was denied
- Lost wages
- Expenses
- Injury to dignity
- interest

## Constructive Dismissal

- ▶ Notice
- ▶ Expenses
- ▶ Punitive Damages
- ▶ Aggravated Damages
- ▶ Costs

## WorkSafe

- ▶ Treatment
- ▶ pension

## Workplace Investigation

Determination of what happened with  
recommendations



## Challenges & Benefits

HRT

Civil

WorkSafe

## Practical Tips

1. Listening empathetically
2. Exploring alternative options, while still validating client concerns
3. Managing client expectations
4. Prioritizing client safety

## Questions?

**Rose Keith** - *Partner*

604-895-2911

[rkeith@harpergrey.com](mailto:rkeith@harpergrey.com)